

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:09CV183-01-MU

ROBERT M. LATTIMORE,

Plaintiff,

v.

JAMES HAMILTON,

Defendant.

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**ORDER**

**THIS MATTER** comes before the Court for an initial review of Plaintiff's Complaint pursuant to 42 U.S.C. § 1983, filed May 14, 2009.

In his Complaint Plaintiff alleges that on January 26, 2003, Defendant, a police officer with the Spindale Police Department, was called to "the wilkerson residents" to investigate a kidnaping, robbery, and assault. Plaintiff alleges that Defendant has a personal vendetta against him and refused to give him protection of the law. Plaintiff states that although he had been beaten, Defendant refused to get witness statements and withheld critical evidence to run a conspiracy against him and make sure the prosecutor did not believe Plaintiff's allegations..

Plaintiff's Complaint is untimely. Because there is no federal statute of limitations for § 1983 actions, the state statute governing personal injury is applied. Wilson v. Garcia, 471 U.S. 261 (1985). In North Carolina a three year statute of limitations applies to any personal injury not covered by another limitation. N.C. Gen. Stat. § 1-52(5). Consequently, § 1983 claims arising in North Carolina have a three year statute of limitations. National Advertising Co., 947 F.2d 1158,

1161-62 (4<sup>th</sup> Cir. 1991). In his Complaint Plaintiff asserts that the actions upon which he is basing his lawsuit took place in January 2003 - over six years ago. Because over three years lapsed between the time the alleged acts occurred and the time Plaintiff filed this lawsuit, his claim is untimely and is dismissed.

**IT IS THEREFORE ORDERED THAT Plaintiff's Complaint is DISMISSED.**

Signed: May 19, 2009

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

